

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1917.

A BILL

To provide for the pre-planning and re-planning of towns; for the carrying out of the plans; for the constitution and powers of a Town Planning Commission; and for purposes consequent thereon and incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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PART

PART I.

PRELIMINARY.

1. This Act may be cited as the "Town Planning Act, 1917." Short title.

2. This Act is divided into Parts as follows :—

Division into
Parts.

PART I.—PRELIMINARY.

PART II.—GENERAL POWERS.

PART III.—PREPARATION OF TOWN PLANNING SCHEMES.

PART IV.—OBJECTIONS TO SCHEMES.

PART V.—THE TOWN PLANNING COMMISSION.

PART VI.—APPEALS TO TOWN PLANNING COMMISSION.

PART VII.—PROCLAMATION OF SCHEMES IN TOWN PLANNING ORDERS.

PART VIII.—CARRYING OUT TOWN PLANNING ORDERS.

PART IX.—COMPENSATION.

PART X.—BETTERMENT.

PART XI.—RE-ALIGNMENT.

PART XII.—SUPPLEMENTARY.

PART XIII.—ORDINANCES.

3. (1) This Act shall be read with the Local Government Act, and expressions which are defined in that Act shall where used in this Act have the meanings so defined, except where inconsistent with the context or subject-matter. Interpretation.

(2) In this Act, unless inconsistent with the context or subject-matter,—

“Commission” means town planning commission.

“Local Government Act” means the Local Government Act, 1906, or any Act hereafter passed repealing and replacing that Act.

“Order”

“Order” means town planning order.

“Parcel of land” means

“Scheme” means town planning scheme.

- 4.** Subject to the provisions of this Act— Application
of Act.
- (a) this Act shall apply to municipalities and shires; and
 - (b) the powers and duties conferred and imposed upon a council under this Act shall apply in respect of each area to the council of the area.

PART II.

GENERAL POWERS.

- 5.** Subject to the provisions of this Act, the council may control and regulate, and may undertake— Power to
pre-plan and
to re-plan.
- (a) the planning of new roads and of subdivisions of land;
 - (b) the rearrangement of existing roads and of parcels of land;
 - (c) the demolition, rearrangement, and reconstruction of buildings and works; and
 - (d) the improvement and embellishment of the area.
- 6.** The council may purchase or resume, as provided in the Local Government Act, any land, and may thereupon do all or any of the following things— Power of
reconstruction.
cf. Sydney
Corporation
Amendment
Act, 1905,
s. 22, as
amended by
Act No. 16,
1906.
- (a) demolish or repair any buildings or erection thereon;
 - (b) construct new buildings or erections thereon;
 - (c) alter, widen, or extend any existing public road adjacent to such land;
 - (d) close any existing public road through such land;
 - (e) construct and open any new public road thereon;
 - (f)

- (f) alter the levels of such land, and alter existing drains, and construct new drains and storm-water channels thereon;
- (g) generally alter, remodel, and improve such land and buildings in such manner as the council may think fit;
- (h) sell or lease the whole or any portion of such land, in one or more lots, as in the Local Government Act provided.

PART III.

PREPARATION OF TOWN PLANNING SCHEMES.

7. (1) The council may appoint a town planning ^{Town} _{planning} ^{committee.} _{committee.}

(2) The town planning committee may consist either wholly or in part of persons who are not members of the council.

(3) The persons appointed who are not members of the council shall (as far as may be practicable) be persons having some professional or special qualification needed or serviceable in connection with town planning.

(4) The council may supply the committee with such professional, clerical, and other assistance as may be necessary, and may defray the expense from the general fund.

(5) The town planning committee may—

- (a) investigate and prepare town planning schemes;
- (b) inquire into and report upon such matters of town planning and housing of the people as the council may direct;
- (c) exercise the powers of entry on land conferred by the Local Government Act on the council;
- (d) call and examine witnesses; and
- (e) have such other powers, duties, and authorities as are conferred or imposed by this Act, or as may be prescribed by ordinance. (6)

(6) The provisions of the Royal Commissioners Evidence Act, 1901, shall, mutatis mutandis, apply to the town planning committee for the purposes of this Act.

(7) Unless in exceptional circumstances, which shall be set out in the council's minutes, members of town planning committees shall not be paid for their services thereon.

8. (1) Before the council resolves that a town planning scheme shall be prepared in respect of the whole or any part of the area, the council shall refer the proposal to the town planning committee for report as to whether any such scheme is necessary or desirable in regard to the whole or part of the area affected, and, if so, what lands should be embraced in the scheme.

Preliminary report.
cf. Housing, Town Planning, &c., Act, 1909 (Eng.), s. 54.

(2) If it appears to the town planning committee desirable that land outside the area should be included in the scheme the committee may so report; and if the committee proposes to include such land it shall seek the approval of the council of the area in which that land is situated, and shall not (in the absence of such approval) include that land in the scheme, except as elsewhere in this Act provided.

9. The town planning committee may propose to the council that a town planning scheme be prepared in respect of the whole or any part of the area.

Preparation of schemes.
cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 54.

10. (1) The council may thereupon direct the town planning committee to prepare such a scheme.

Direction to committee to prepare.

(2) The council may at any time approve or direct the inclusion in any town planning scheme of additional lands within its area.

11. (1) In preparing a scheme the committee shall give consideration to the probable requirements of the area during a period of not less than fifty years, or during such longer period as the council may direct.

What shall be considered general objects of scheme.

(2) The general objects of any scheme shall be so to plan the development or reconstruction of the area, and particularly the part thereof directly affected by the scheme, as to secure the healthfulness, amenity, convenience, and commercial advancement of the area.

cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 54.

12. A scheme shall consist of a draft town planning order in a form similar to a regulation suitable to be made by the Governor, accompanied by such plans, sections, specifications, and schedules as may be necessary, with or without an explanatory report.

Form of
scheme.

13. A scheme may include all lands within the specified part of the area irrespective of ownership.

Lands
included.

14. A scheme may provide for—

What scheme
may provide
for.
cf. Housing,
T.P., &c.,
Act, 1909
(Eng.),
Sched. IV..

- (a) roads generally; and particularly the alteration, widening, closing, diverting, raising, lowering, aligning, realigning, grading, regrading, classifying, reclassifying, naming, renaming, repairing, constructing, reconstructing, draining, redraining, sewerage, resewerage, parking, beautifying, gardening, and tree planting of roads, the treatment of junctions and intersections of roads, and the laying of sewers, pipes, and wires in roads;
- (b) parks and open spaces generally; and particularly gardens, playgrounds, sports grounds, drill grounds, aviation grounds, island refuges, public squares, public circular spaces, and gardens;
- (c) public buildings and conveniences generally; and particularly churches, schools, fountains, and refreshment kiosks;
- (d) the subdivision of land generally; and particularly the size and shape of separate parcels of land, the pooling of the lands of several owners and the redivision of lands among owners and the vesting thereof subject or not subject to rights and trusts, and the dealing with or disposal of lands acquired by the council or by any public or statutory body or authority;
- (e) buildings generally; the special control and regulation of building; and particularly the prevention of the erection of ugly buildings which may destroy local amenities, the placing of new public buildings, the preservation of buildings of historical interest, harmony in the design of buildings, uniformity in height of buildings in particular roads, relating the height

- height of buildings to the width of the road, limitation of number of houses per acre, prohibition of advertisement-boards, or other disfigurements, the demolition or alteration of buildings, and the classification of the district ;
- (f) opening spaces around public buildings or monuments, railway stations, or the water front ;
 - (g) conservation of the natural beauties of the area ;
 - (h) the preservation of objects of historical or scientific interest ;
 - (i) probable routes of railways and tramways ;
 - (j) the provision of water supply, sewerage, and drainage services ;
 - (k) facilities for the operation of public utilities and trading undertakings of the council ;
 - (l) the purchase or resumption of land by the council ;
 - (m) power for the council to remove any work which obstructs the scheme ;
 - (n) co-operation between the council and the owners of land ; and co-operation between owners of land ;
 - (o) co-operation between the council and the Government of the State or of the Commonwealth and any other council and any public or statutory bodies or authorities ;
 - (p) betterment charges payable by and compensation payable to owners and lessees, and the recovery thereof ;
 - (q) the recovery of expenses incurred in giving effect to the scheme ;
 - (r) the extinction or variation of any easement, statutory or otherwise, or any restrictive covenant ;
 - (s) the carrying out of the scheme generally ; and particularly the time and manner in which, and the persons and authorities by whom, the scheme shall be carried out ;

(t)

- (t) the carrying out and supplementing of the provisions of this Act for enforcing town planning orders ;
- (u) the application, with the necessary modifications of Housing, T.P., &c., Act, 1909 (Eng.), s. 55. and adaptations, of statutory enactments ; and the suspension so far as may be necessary for the proper carrying out of the scheme of any statutory enactments, by-laws, regulations, ordinances, notifications, proclamations, orders, or other provisions, under whatever authority made, which are in operation in the part of the area included in the scheme ;
- (v) any matter with respect to which under this Re agree- ments, see s. post. Act an agreement relating to a town planning scheme may be made ; and
- (w) any matter necessary or incidental to town planning.

15. A scheme when prepared shall be submitted Provisional approval by council. See s. post. to the council for its provisional approval, and if provisionally approved shall be dealt with as provided in this Act in relation to the proclamation of schemes in town planning orders.

16. (1) Before the preparation of any town plan- Notices to, and conferences and agreements with owners. ning scheme, the town planning committee shall give notice by advertisement to the owners and lessees of land included in the scheme that a scheme affecting their land is about to be prepared, and inviting them to submit suggestions and proposals in connection therewith. So far as may be practicable, the committee shall post a copy of such advertisement to all owners of such land.

(2) The committee may confer with any or all such owners and lessees, and with public or statutory bodies and authorities, in relation to the scheme.

(3) The committee may in the name of the council make provisional agreements with such owners, lessees, bodies, or authorities, with respect to the scheme or any part thereof, and in particular with respect to—

- (a) the betterment of any land, and betterment rates payable by owners ;
- (b) compensation payable to owners and lessees by the council or other owners or lessees ;

(c)

- (c) compensation in land ;
- (d) the pooling, redivision, and exchange of land ;
- (e) the demolition or reconstruction of buildings or both ;
- (f) the granting of land for public purposes ;
- (g) the construction and drainage of roads ;
- (h) the extinction or variation of easements, statutory or otherwise, or restrictive covenants ;
- (i) the removal of obstructive works ;
- (j) co-operation between owners, or owners and council ; and
- (k) any matter necessary or incidental to the scheme.

(4) Such agreements, when made, may be included in the scheme or added as schedules thereto.

17. (1) The majority in number of the owners of the lands in any defined part of the area may prepare a town planning scheme for such defined part. Preparation by owners.

(2) The owners may confer with the town planning committee with regard to the scheme. Conference with civic planning commission.

(3) The scheme when so prepared may be laid before the council accompanied by— Laying scheme before council.

- (a) a list of the owners of the lands affected thereby ;
- (b) such agreements as any of the owners may have made relating to the scheme ; and
- (c) a petition signed by the majority of the owners praying that the scheme be adopted by the council.

(4) Thereafter the scheme may be dealt with similarly to a scheme prepared by the town planning committee: How dealt with. Provided that the owners submitting the scheme shall pay to the council a sum of money estimated by the council to be sufficient to cover the expenses of the council in dealing with such scheme in accordance with this Act up to the point of its proclamation in a town planning order or its rejection.

PART IV.

OBJECTIONS TO SCHEMES.

18. Upon any town planning scheme being provisionally approved by the council—

Printing exhibition and advertisement of scheme.

- (a) copies thereof shall be printed—provided that the maps, sections, and plans may be abridged or reduced in such manner as the council may decide for the purpose of such printing;
- (b) the maps, sections, plans, and the like, forming part of the scheme, shall be publicly exhibited during the council's office hours at some place fixed by the council, and shall, except as elsewhere provided, be so exhibited until the period allowed for the lodging of objections has elapsed;
- (c) the council shall advertise once or more each week for not less than six weeks in a newspaper that such scheme has been prepared, that the maps, sections, plans, and the like, are on public view at such place aforesaid, that copies of the scheme are on sale at the same place at such sum not exceeding five shillings as the council may fix; and that objections to the scheme may be lodged with the council on or before a stated date, not being less than six weeks from the date on which the first advertisement is published;
- (d) the council shall cause copies of the scheme to be sold accordingly; and
- (e) the council shall cause a public meeting of persons interested to be called at least once during such period of six weeks, and to be held at some convenient place within the part of the area covered by the scheme, or if there be no convenient place within such part then at some convenient place as near thereto as practicable; and at such meeting shall cause the scheme to be explained and the maps, sections,

sections, plans, and the like, to be exhibited; and shall at such meeting or at any adjournment thereof held within the aforesaid period allow the persons attending to discuss the scheme.

19. (1) Within the aforesaid period any owner or lessee or person otherwise interested may serve on the council a formal objection to the scheme. Objections.

(2) Such objection shall state the reasons for the objection, and whether the objection would be removed by an alteration of the scheme; and, if so, what is the nature of the alteration.

20. (1) The council shall fix a time for hearing the objections, and notify each of the objectors thereof. Hearing of objectors.

(2) The council shall either hear the objectors, or depute the matter for hearing and report to a committee of the council.

(3) Objections shall be heard in public, whether by council or committee.

(4) The Royal Commissioners' Evidence Act, 1901, shall apply, mutatis mutandis, to the council for the purpose of the hearing of objections and the investigation of town planning schemes.

21. The council may refer the scheme to the town planning committee for report upon the objections. Reference to town planning commission.

22. The council may, after the objections have been heard, reject, adopt, or alter and adopt the scheme. Adoption of scheme.

PART V.

THE TOWN PLANNING COMMISSION.

23. (1) There shall be a town planning commission for the purposes of this Act. Town planning commission.

(2) There shall be three permanent members of the commission appointed by the Governor.

(3) The Minister may from time to time appoint temporary members of the commission to act in relation to any specified town planning scheme or ordinance, or for the hearing of any specified appeal. (4)

(4) The permanent members of the commission shall be appointed subject to the provisions of this Act for a term of three years, and shall be eligible for reappointment.

(5) In case of the resignation of a permanent member the Governor may make an appointment for the remainder of the unexpired term.

(6) The members of the commission shall be paid by fees fixed by the Minister.

(7) In case of the illness or other incapacity or absence from the State or of any vacancy in the office of any member of the commission, the Minister may appoint some person to be a member of the commission only during such illness, incapacity, or absence, or until such vacancy is filled.

(8) The acts or proceedings of the commission shall not be invalid by reason only of—

- (a) any vacancy in the membership of the commission; or
- (b) any defect in the appointment of any member.

(9) The commission shall be a body corporate with perpetual succession and a common seal, and shall be capable of suing and being sued, and of doing and suffering all such other acts and things as may be necessary or convenient for carrying out the purposes of this Act.

(10) A majority of the members for the time being of the commission shall constitute a quorum.

(11) Any meeting of the commission at which a quorum is present shall be competent to transact business.

(12) The commission may each year elect one of the permanent members to be the chairman.

(13) In the absence of the chairman from any meeting, the commission may elect any member to be chairman during such absence.

(14) The chairman shall preside at the meetings of the commission, and shall have a deliberative vote, and in case of an equality of votes, a casting vote.

24. The town planning commission shall—

Duties of
commission.

- (a) hear and report to the Minister upon appeals against town planning schemes ;
- (b) hear and give decisions upon appeals against the decisions of councils under the Local Government Act in relation to applications for approval to the opening of new roads, applications for approval to the subdivision of land, and applications for approval to build ;
- (c) report to the Minister upon any matter relating to town planning or the housing of the people which the Minister may refer to the commission for report ;
- (d) prepare a report upon its operations each year to be included in the report laid before Parliament by the Local Government Department.

25. (1) The commission may—

Powers of
commission.

- (a) exercise the powers of entry upon land conferred by the Local Government Act on councils ;
- (b) call and examine witnesses ; and
- (c) have such other powers, duties, and authorities as are conferred or imposed by this Act, or as may be prescribed by ordinance.

(2) The provisions of the Royal Commissioners Evidence Act, 1901, shall, mutatis mutandis, apply to the commission for the purposes of this Act.

PART VI.

APPEALS TO TOWN PLANNING COMMISSION.

26. When any scheme has been adopted or altered and adopted the council may resolve that application be made under the seal of the council to the Minister to recommend the Governor to embody such scheme in a town planning order by proclamation.

Application
for Governor's
approval.

27.

27. The Minister shall thereupon give notice by advertisement in the Gazette and a newspaper that such application has been made, and that appeals against the scheme may be lodged with him on or before a stated date. Advertisement of application.

28. On or before the stated date any owner, lessee, or person otherwise interested may serve a written appeal on the Minister. Appeals.

29. (1) The Minister shall refer the scheme, together with all appeals received before the stated date, to the town planning commission for inquiry, report, and recommendation. Appeals to be referred to commission.

(2) Where appeals are not received before the stated date, the Minister may refer the scheme to the commission for inquiry, report, and recommendation.

30. The council shall be represented at and a party to such inquiry. Council a party.

PART VII.

PROCLAMATION OF SCHEMES IN TOWN PLANNING ORDERS.

31. Upon consideration of the report of the Commission, or if there be no appeals, the Minister may confer with the council upon the scheme and upon the appeals (if any), and may recommend the Governor to approve the scheme without alteration, or with such alterations as he may decide. Minister's decision.

32. (1) The Governor may so approve, and may proclaim the scheme as approved with or without alteration as a town planning order under this Act. Proclamation of civic planning order.

(2) For the purposes of such proclamation any maps, sections, plans, and the like may be abridged or reduced.

33.

33. Upon proclamation a town planning order shall, subject to this Act, have the force of a statutory enactment:

Provided that where a proposed town planning order contains provisions suspending any enactment contained in a public Act the order shall not come into force unless a draft thereof has been laid before each House of Parliament for a period of not less than forty days during the session of Parliament, and if either of those Houses before the expiration of those forty days presents an address to His Majesty against the proposed suspension, no further proceedings shall be taken on the scheme, without prejudice to the making of any new scheme.

34. Upon the proclamation of a town planning order the council shall serve a copy thereof, including a full-size copy of the plans, sections, and specifications, upon the Registrar-General, who shall file the same in the records of his office.

35. The council shall permit any person on payment of a fee not exceeding one shilling to inspect during the council's office hours a full-size copy of any plans and sections forming part of a town planning order.

36. (1) A town planning order may be amended or revoked by a subsequent scheme and order prepared and proclaimed in accordance with this Act.

(2) The Governor may, by proclamation, correct any slip or error in any town planning order.

37. The Minister may, on the application of the council, recommend the Governor to revoke a town planning order if under the special circumstances of the case, he considers that the order should be revoked; and the Governor may by proclamation revoke the order accordingly.

Effect of proclamation.
Status of civic planning order.

cf. Housing, T.P., &c., Act, 1909, (Eng.), s. 55.

Notice upon Registrar-General.

Inspection of plans.

Amendment of C.P. orders.

cf. Housing T.P., &c., Act, 1909 (Eng.), s. 54 (6).

Revocation of C.P. orders.

Ibid.
See also s. 628.

PART VIII.

CARRYING OUT TOWN PLANNING ORDERS.

38. The council may carry out any town planning order, either— Carrying out order.

- (a) by purchase of land and subsequent action in pursuance of the order; or
- (b) by resumption of land and subsequent action in pursuance of the order; or
- (c) by the realignment method and subsequent action in pursuance of the order; or For "re-alignment method" see s. post.
- (d) by enforcing any duty laid by the order upon any owner or lessee, or public body, or authority, including the State Government, and any municipal or shire council; or
- (e) by enforcing any agreement included in any order, or made subsequent to the order, and relating thereto; or
- (f) by exercising in accordance with the order its powers under this Act and the Local Government Act, to regulate the opening of new roads, and the subdivision of land, and the erection of buildings; or
- (g) by any other method specifically provided in the order; or
- (h) by the exercise of any power conferred upon the council by or under this Act; or
- (i) by any combination of two or more of these methods.

39. After the proclamation of any town planning order no person shall place on any land to which such order applies any work or building, or any addition to or improvement in any work or building except in accordance with such order. Effect of civic planning order. (Halifax Act.)

40. (1) The council in accordance with the provisions of any town planning order may, after giving the prescribed notice— Power to enforce order.

- (a) remove, pull down, or alter any building or other work in the area included in the order which is such as to contravene the order, or to contravene cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 57.

contravene this Act, or in the erection or carrying out of which any provision of the order or of this Act has not been complied with ; or

- (b) execute any work which it is the duty of any person to execute under the order in any case where it appears to the council that delay in the execution of the work would prejudice the efficient operation of the order.

(2) Any expenses incurred by the council under this section may be recovered in any court of competent jurisdiction from the persons in default.

PART IX.

COMPENSATION.

41. (1) Subject to this Act, any person whose property is within the area, or part thereof, covered by a town planning order, and is injuriously affected by the proclamation of the order shall, if he makes a claim for the purpose within three months after the proclamation of the order, be entitled to obtain compensation in respect thereof from the council.

Compensation for injurious effect of making of order.

cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 58.

(2) A person shall not be entitled to obtain compensation under this section on account of any building erected on or contract made or other thing done with respect to land included in a town planning order after the time at which notice of the proposal to prepare the scheme precedent to such order was given under Part III of this Act, or (if such notice was not given) after the time when the scheme was provisionally adopted by the council :

See also ss. 601, 607, ante.

Provided that this subsection shall not apply as respects any work done before the date of the proclamation of the order for the purpose of finishing a building begun, or of carrying out a contract entered into, before the aforesaid time.

42. Any question as to whether any property is injuriously affected within the meaning of this Part, and as to the amount of the sum which is to be paid as compensation therefor, shall be determined by arbitration under the Arbitration Act, 1902, unless the parties agree upon some other method of determination.

Settlement of disputes. cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 58 (4).

43. Where property is alleged to be injuriously affected by reason of any provisions contained in a town planning order, compensation shall not be paid in respect thereof, if or so far as the provisions are such as are contained in this or any other Act or would have been enforceable if they had been contained in ordinances or regulations or by-laws made under this or any other Act.

Limitation of compensation. cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 59 (1).

44. Property shall not be deemed to be injuriously affected by reason of the making in a town planning order of any provisions which, with a view to securing the amenity of the area included in the scheme, or any part thereof, prescribe the space about buildings or limit the number of buildings to be erected, or prescribe the height or character of buildings, and which the council, having regard to the nature and situation of the land affected by the provisions, considers reasonable for the purpose.

Property not injuriously affected. cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 59 (2).

45. Where any town planning order is amended or revoked under this Act, any person who has incurred expenditure for the purpose of complying with the order shall be entitled to compensation in accordance with this Part in so far as any such expenditure is rendered abortive by reason of the amendment or revocation of the order.

Compensation on amendment or revocation of order. See also s. cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 58 (6).

46. Any amount due from the council under this Part, as compensation to a person aggrieved, may be recovered as a debt before any court of competent jurisdiction.

Recovery of compensation. cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 58 (5).

47. The provisions of this Part as to compensation shall be subject to any special provisions respecting compensation which may be included in any agreement with the claimant or his predecessor in title incorporated in the town planning order affected or made subsequent thereto.

Compensation subject to agreements, &c.

48.

48. Subject to this Act the provisions of this Part as to compensation shall not apply to any town planning order or to part of an order, so far as such order or part relates only to the re-alignment of roads. Compensation for re-alignment. For compensation on re-alignment, see s. post.

49. (1) In any case where it is expressly provided that compensation may be claimed under this Act, such claim may, by agreement between the council and the person claiming such compensation, be referred to arbitration under the Arbitration Act, 1902. Arbitration re compensation.

(2) Failing such agreement within one month after notice of the claim is served on the council either party may refer the claim to a district court judge having jurisdiction in the locality in which the subject matter of the claim is situated, such judge shall act as sole arbitrator, and the claim shall be deemed to be submitted to him under the said Act.

(3) Such judge shall hear and determine the matter and make such order with respect to the claim and the costs of the case as having regard to the circumstances of the case and to the public interest he shall think just.

PART X.

BETTERMENT.

50. (1) Where any town planning order is proclaimed, the council may, within such time not exceeding five years after such proclamation as is specified in such order, require the valuer-general for reasonable payment to report whether any land covered by the order has been increased in value by the proclamation of the order, and, if so, to supply a list of such lands and such increases. Betterment. cf. Housing, T.P., &c., Act, 1909 (Eng.), s. 58 (4).

(2) Such increase shall be called betterment.

(3) Notice of valuation of betterment shall be given in the same manner as notice of valuation of land (whether under the Local Government Act or under the Valuation of Land Act, 1916), and the provisions of any such

such Act for the time being in operation in the area relating to appeals against valuations of land shall, *mutatis mutandis*, apply to valuations of betterment.

(4) Before making a betterment rate it shall not be necessary to publish estimates or notices.

51. (1) Subject to this Act the council may make and levy a betterment local rate in respect of the betterment of any such land aforesaid. Betterment rate.

(2) A local rate under this Act may be made, levied, and recovered in accordance with the provisions of the Local Government Act relating to the making, levying, and recovery of rates (but without any right to demand or any duty to take a poll). See exception in s. 607 ante.

(3) Such rate shall be levied for a term of years fixed by the council when first making such rate; and such term of years shall be stated on the rate notice.

(4) The amount of the rate on each separate parcel of land shall be such as to return to the council by equal yearly instalments spread over the aforesaid term of years a sum equal to one-half of the betterment on such separate parcel.

(5) The amount of the betterment shall be subject to any special agreements relating thereto embodied in any town planning order.

(6) The proceeds of any betterment rate shall be paid into the appropriate fund, and applied—

- (a) to the loan repayment account of that fund, if the council is carrying out the town planning order partly or wholly by means of borrowed money; or
- (b) to the carrying out of the town planning order, in any other case.

PART XI.

RE-ALIGNMENT.

52. (1) The council may cause any public road to be widened. Re-alignment.

(2) Any widening of a road may be carried into effect by the acquisition under the Local Government Act or the Public Roads Act, 1902, of the necessary land, or under the provisions of this Part relating to the re-alignment method of acquiring land, or by a combination of these methods.

53. Where the council proposes to adopt the re-alignment method of widening a road and acquiring the land therefor, the council shall—

- (a) prepare and adopt a plan of the road showing the existing and the proposed alignment of the road; and
- (b) serve notice accordingly upon the owners of lands affected; and until such notice is served, the interests of such owners shall not be affected by the alignment.

54. Under the re-alignment method compensation for any injurious effects suffered by reason of such re-alignment may be claimed but shall be limited to payment of the value of the land taken from any owner by reason of the re-alignment, and such value shall be ascertained and such compensation shall be payable as at the date when such land is cleared of buildings and obstructions by the owner or lessee, whether for the purpose of rebuilding to the new alignment or not; and from that date the land shall vest in the council in fee simple for a public road. Compensation. For settlement of compensation see Part XXXIII.

55. Where any public road is re-aligned, and where the re-alignment method is applied, the owner of any land or building or work affected by such re-alignment shall not construct, build, place, reconstruct, rebuild, replace, or repair any building or work, or portion of a building or work, standing upon the land between the old alignment and the new: Prohibition of construction or substantial repair of buildings and works.

Provided

Provided that the council may approve the execution of minor and not substantial repairs in order to permit of the reasonable preservation of any existing building or work, but not so as to violate the intention of this section.

56. Whether or not the council has elected to apply the re-alignment method it may, at any time, and notwithstanding any such election, decide to purchase or resume any or all of the lands affected by the re-alignment under the provisions of the Local Government Act relating to the purchase or resumption of land. Power to purchase or resume for re-alignment.

57. Notwithstanding the provisions of any other Act, the land between the old alignment and the new shall not form part of the road until the council has acquired title to such land, or a dedication thereof as a public road has been effected. When the land forms part of the road.

PART XII.

SUPPLEMENTARY.

58. Where the title to any land contains covenants and such covenants are contrary to any requirement by or under this Act, such covenants shall be void to the extent that they are so contrary. Covenants.

59. The council may instruct the town planning committee to arrange the terms and conditions of competitive designs for town planning schemes, and may offer prizes for such designs as may be selected by the committee, and may pay such sums as may be necessary for prize designs out of the general funds. Town planning competitions.

60. The powers of a council under the Local Government Act may be used for the carrying out and enforcement of this Act, as though this Act were incorporated therein. Incorporation of Local Government Act.

61. (1) Any two or more councils may, in accordance with the Local Government Act, agree to act jointly (by means of a joint committee of the councils) in the appointment of a joint town planning committee, and the preparation and enforcement of a joint town planning scheme affecting lands in their areas. Councils acting in unison. (2)

(2) In any such case the joint committee of the councils shall take the place of the council for the purposes of the various provisions of this Act.

PART XIII.

ORDINANCES.

62. Ordinances may be made under the Local Ordinances. Government Act for carrying this Part into effect, and in particular for and with respect to—

- (a) the manner of preparing and the details to be specified in maps, sections, specifications, and estimates of town planning schemes ;
- (b) the procedure to be adopted in the preparation of town planning schemes, in relation to objections and protests against such schemes, inquiries respecting such schemes, and the obtaining of the Governor's approval to such schemes ;
- (c) the form, time, and manner of giving notices and advertisements ;
- (d) the carrying out or enforcing the observance of the provisions of town planning orders ;
- (e) the notices to be given to persons interested as to the enactment of town planning orders ;
- (f) inquiries and reports as to the beginning and the progress and completion of works and other action under any town planning order ;
- (g) a set of general provisions which shall take effect as part of every town planning scheme or order except so far as provision is made by the scheme or order for the variation or exclusion of any of those provisions ;
- (h) separate sets of general provisions, adapted for areas of any special character, which shall take effect as part of every town planning scheme or order for an area of the special character to which such provisions are adapted except so far

cf. Housing,
T.P., &c.,
Act, 1909
(Eng.), s. 55.

Ibid. s. 55.

far as provision is made by the scheme or order for the variation or exclusion of any of those provisions ;

- (i) hearing and deciding objections or suggestions by persons interested in regard to any town planning schemes ;
 - (j) securing co-operation with owners of land as to matters dealt with in this Act ;
 - (k) the manner of preparing town planning schemes ;
 - (l) the demolition of buildings on land included in a town planning order ;
 - (m) publication of notices in connection with town planning schemes and orders ;
 - (n) co-operation with any government, and with any public, private, or statutory body, in matters dealt with in this Act ; and
 - (o) conditions necessary to be laid down for town planning competitions.
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